

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA

|   |   |                          |
|---|---|--------------------------|
| Derrick Antonie Gatson,                         | ) | C/A No. 0:14-830-JFA-PJG |
|   | ) |                          |
| Plaintiff,                                      | ) |                          |
|   | ) |                          |
| vs.   | ) | ORDER                    |
|   | ) |                          |
| State of South Carolina; Civil Records Clerk of | ) |                          |
| Court Richland County; The Attorney General of  | ) |                          |
| the State of South Carolina; Columbia Police    | ) |                          |
| Department; Tommy Thomas, Investigator; Walt    | ) |                          |
| Bales, Investigator; Harry C. Depow; Curtis     | ) |                          |
| Murph, Attorneys at Trial, Brooks Law Firm;     | ) |                          |
| Warren B. Giese; R. Knox McMahon; August        | ) |                          |
| Swarat, Solicitors, Richland County Judicial    | ) |                          |
| Center; John W. Kittredge, Judge, Richland      | ) |                          |
| County Judicial Center,                         | ) |                          |
|   | ) |                          |
| Defendants.                                     | ) |                          |
|   | ) |                          |

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The *pro se* plaintiff, Derrick Antonie Gatson, is an inmate with the South Carolina Department of Corrections. He brings this action pursuant to 42 U.S.C. § 1983 contending that the defendants violated his constitutional rights during his state criminal proceedings. He seeks monetary damages and an order vacating his sentence.

The Magistrate Judge assigned to this action<sup>1</sup> has prepared a Report and

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<sup>1</sup> The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b)(1).

Recommendation and opines that the § 1983 action should be summarily dismissed. The Report sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates such without a recitation.

The plaintiff was advised of his right to file objections to the Report. In his one-page memorandum, the plaintiff merely notes that he generally objects to the Report and that he understands that the defendants are entitled to immunity, but that he seeks money for their civil rights violation. In the absence of specific objections to the Report of the Magistrate Judge, this court is not required to give any explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983).

The Magistrate Judge correctly opines that a suit against defendant State of South Carolina is barred by the Eleventh Amendment without consent of the state; defendant Judge John Kittredge is entitled to absolute judicial immunity from suit; the Richland County Civil Records Clerk is protected by quasi-judicial immunity; Solicitors Warren B. Giese, R. Knox McMahon, and August Swarat, and the Attorney General is entitled to prosecutorial immunity; and that attorneys Harry C. Depow and Curtis Murph did not act under color of state law in their representation of the plaintiff and that they cannot be sued under § 1983 in such capacity; and that the Columbia Police Department is not a “person” amenable to suit under Section 1983.

The Magistrate Judge also properly suggests that the claims against investigators Tommy Thomas and Walt Bales are not cognizable under § 1983 because the plaintiff cannot

demonstrate that his conviction or sentence has been previously invalidated. Finally, this court agrees with the Magistrate Judge that it should decline supplemental jurisdiction over plaintiff's legal malpractice claim or any other state law claim.

After a careful review of the record, the applicable law, and the Report and Recommendation, the court finds the Magistrate Judge's recommendation proper and incorporates it herein by reference. Accordingly, this action is dismissed without prejudice and without issuance and service of process.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "Joseph F. Anderson, Jr." in a cursive script.

Joseph F. Anderson, Jr.  
United States District Judge

July 23, 2014  
Columbia, South Carolina